



**PLANNING COMMISSION AGENDA**  
*SYNOPSIS*

**Wednesday, March 10, 2004**

**6:00 p.m. Regular Meeting**  
Council Chambers, Room 205, City Hall

801 North First Street  
San Jose, California

**Jay James, Chair**  
**Bob Levy, Vice-Chair**

**Xavier Campos      Bob Dhillon**

### NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 277-4576 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation and have not already identified yourself to the technician seated at the staff table, please do so now. If you did not call in advance and do now need assistance, please see the technician.

### NOTICE TO THE PUBLIC

Good evening, my name is **Jay James** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***March 10, 2004***. Please remember to turn off your cell phones and pagers.

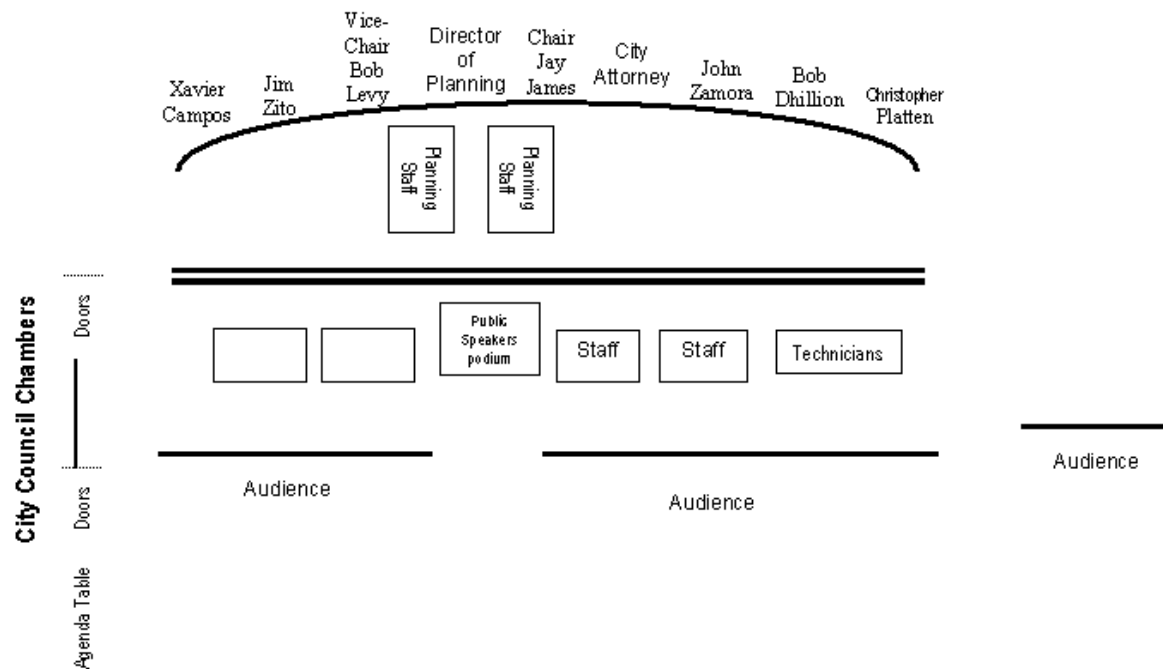
If you want to address the Commission, **fill out a speaker card (located on the table by the door or at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

The procedure for this hearing is as follows:

- ? After the staff report, applicants and appellants may make a 5-minute presentation.
- ? The chair will call out names on the submitted speaker cards in the order received.
- ? As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- ? After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- ? Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- ? The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



## **AGENDA**

### **ORDER OF BUSINESS**

#### **1. ROLL CALL**

*ALL WERE PRESENT, EXCEPT ZITO.*

#### **2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

- a. CP03-054. CONDITIONAL USE PERMIT to legalize a 390 square-foot unpermitted addition (and to add 289.6 *additional square feet*) to the rear of an existing single-room-occupancy living unit on a 0.16 gross acre site in the CG General Commercial Zoning District, located at/on west side of North 6th Street approximately 170 feet southeasterly of East St. John Street (73 N. 6<sup>th</sup> Street) (Keith Alan Watt, Trustee/Owner). Council District 3. SNI: Horace Mann. CEQA: Exempt.

*DROPPED.*

#### **3. CONSENT CALENDAR**

##### **NOTICE TO THE PUBLIC**

**The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please come to the podium at this time.**

- a. RCP04-005. CONDITIONAL USE PERMIT to allow live concerts on a vacant at-grade parking lot (up to 22 events per year) between the hours of 5:00p.m. and 10:30p.m. on Thursday through Sunday, on a 0.28-acre site in the CG Commercial General Zoning District, located at 401 South First Street and 402 South Market Street. (Bertram Burns, Owner/ Jacek Rosicki, Applicant). Council District: 3. CEQA:

*THE APPLICANT RESPONDED THAT CLEAN-UP/BREAKDOWN DOES NOT TAKE FULL 2 HOURS, SWEEPING OCCURS WITH BROOMS ONLY, AND THAT AREA BUSINESSES ENCOURAGED PROJECT TO RETURN THIS YEAR TO DRAW PEOPLE INTO THE SoFA DISTRICT TO IMPROVE BUSINESS.*

*CHAIR JAMES NOTED LAST YEAR'S EVENT HAD GOOD TRACK RECORD WITH 6-8 PRIVATE SECURITY OFFICERS ON SITE AND NO COMPLAINTS.*

*COMMISSIONER CAMPOS EXPRESSED CONCERN THAT RESIDENTS OR THOSE WISHING TO PURCHASE HOUSING IN DOWNTOWN MIGHT BE CONCERNED ABOUT OUTDOOR CONCERTS. COMMISSIONER JAMES NOTED SUPPORT BY DOWNTOWN ASSOCIATION, AND THAT PROXIMATE HOTEL WAS SUPPORTIVE, AS WELL AS CLOSEST NEIGHBORHOOD ASSOCIATION. THE DEPUTY DIRECTOR OF PLANNING NOTED THAT SANTANA ROW HAS MULTIPLE EVENTS RUNNING OUTDOORS SEVERAL DAYS A WEEK WITH RESIDENTIAL UNITS ABOVE, AND THAT SOME RESIDENTS DESIRE NOISE/MUSIC AND ACTIVITY, AND A MORE URBAN AMBIANCE.*

*COMMISSIONER ZAMORA MOVED TO DENY CUP NOTING HE DOES NOT SUPPORT PARKING LOT CONCERT CONCEPT, ESPECIALLY WITH ALCOHOL SALES. THE APPLICANT COMMENTED THAT THE LIQUOR SALES LARGELY FINANCE THE CONCERTS. THE CITY ATTORNEY CLARIFIED APPLICANT IS NOT IN FRONT OF COMMISSION TO GET ALCOHOL PERMIT AND THAT ABC COULD ISSUE A SUBSEQUENT ONE DAY ALCOHOL SALES PERMIT.*

*COMMISSIONER PLATTEN REQUESTED CLARIFICATION ABOUT THE 5-YEAR TIME REQUEST. STAFF COMMENTED 5-YEARS SUPPORTED DUE TO GOOD RECORD OF INITIAL TRIAL LAST YEAR*

*COMMISSIONER JAMES INDICATED HE WOULD NOT SUPPORT DENIAL SINCE EVENT HAS A GOOD TRACK RECORD, AND HAS SUPPORT OF NEIGHBORHOOD.*

*THE MOTION TO DENY FAILED (3-3-1; COMMISSIONERS LEVY, JAMES AND PLATTEN OPPOSED). COMMISSIONERS LEVY AND JAMES SUGGEST 1 YEAR COMPLIANCE REVIEW TO ALLOW PROJECT TO GO FORWARD. A MOTION TO APPROVE FAILED (3-3-1; COMMISSIONERS ZAMORA, CAMPOS AND DHILLON OPPOSED). THE ITEM WAS CONTINUED TO ALLOW ALL 7 COMMISSIONERS A VOTE AT NEXT HEARING.*

- c. CP03-043. CONDITIONAL USE PERMIT to allow construction of 2,250 square-feet of office building; reconfiguration of parking spaces; and a 5,000 square-foot expansion of the burial area at an existing cemetery on a 27.37 gross-acre site in the R-1-8 Single-Family Residence Zoning District, located at/on northwest corner of Alum Rock Avenue and Capitol Avenue (2655 Madden Avenue) (Roman Catholic Bishop Of San Jose, Owner). Council District 5. SNI: None. CEQA: Exempt.

*DEFERRED TO 4-28-04.*

- d. CPA01-057-01. RESOLUTION FOR A CONDITIONAL USE PERMIT AMENDMENT to remove a condition of approval from a previously approved Conditional Use Permit for a proposed gasoline service station/car wash facility. The subject condition of approval would require the dedication of an easement for public access over a part of the property that currently extends across a portion of Saratoga Avenue. The project location is a 0.7-acre site in the CG Commercial General Zoning District, located at the southwest corner of Saratoga Avenue and Campbell Avenue (1704 Saratoga Avenue) (Cloyd and JoAnn Smith, Owners; Chevron USA, Applicant). Council District: 1. SNI: None. CEQA: Exempt. Deferred from 2-11-04. Continued from 2-25-04 for preparation of the resolution.

*APPROVED (6-0-1; ZITO ABSENT).*

- e. PDC03-088. PLANNED DEVELOPMENT REZONING from A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to seven (7) single-family detached-residential units on a 0.44 gross-acre site, located on the north side of Blossom Hill Road, opposite terminus of Croydon Avenue (12385 Blossom Hill Road) (San Jose Conservation Corps/Ken Fuller, Owner). Council District 9. SNI: None. CEQA: Exempt.

*RECOMMEND APPROVAL (6-0-1; ZITO ABSENT).*

- f. TR03-086. APPEAL OF THE PLANNING DIRECTOR'S DECISION TO DENY A TREE REMOVAL PERMIT to remove one (1) Deodor Cedar tree 81 inches in circumference on a 0.15 gross-acre site, in the R-1-8(PD) Planned Development Zoning District, located at 2502 Tolworth Drive (Earl Edwards, Owner). Council District 6. SNI: None. CEQA: Exempt.

*UPHELD APPEAL AND APPROVED TREE REMOVAL PERMIT (6-0-1; ZITO ABSENT).*

*DEFERRED TO 4-14-04.*

- b. RCP03-033. CONDITIONAL USE PERMIT to allow a change to the current Permit to a drinking establishment with live entertainment, pool tables, and after-midnight use till 2:00am on a 0.10-acre site in the CG Commercial General Zoning District located on the west side of South First Street at Zoe/Back Bar Nightclub (417 South First Street). (Jacek Rosicki, Owner). Council District 3. CEQA: Resolution No. 68839. Deferred from 1-14-04 and continued from 1-28-04.

*APPROVED (6-0-1; ZITO ABSENT). COMMISSIONER LEVY COMMENDED APPLICANT FOR WORK WITH NEIGHBORHOOD TO ADD CONDITIONS FOR 10:30 PM TIME LIMIT AND 1 YEAR COMPLIANCE REVIEW TO REVIEW NEIGHBORHOODS SATISFACTION WITH OPERATION.*

- c. PDC03-031. PLANNED DEVELOPMENT REZONING from R-M Multiple Residence District to A (PD) Planned Development Zoning District to allow up to 4 detached and 2 attached single-family residences on a 0.46 gross-acre site, located on the northeast corner of Vera Lane and Azucar Avenue (Kawadri Mazen M Trustee & et al, Owner/Developer). Council District 2. SNI: Edenvale/Great Oaks. CEQA: Mitigated Negative Declaration. Deferred from 2-11-04.

*RECOMMEND APPROVAL (6-0-1; ZITO ABSENT). COMMISSIONERS DHILLON, CAMPOS AND LEVY COMMENDED APPLICANT FOR CLEANUP OF EMPTY LOT. APPLICANT NOTED RESIDENTS OF THE EDENVALE/GREAT OAKS SNI AREA WERE ANXIOUS TO CLEAN UP THE SITE.*

*NEIGHBORHOOD RESIDENT EXPRESSED CONCERN THAT AFTER REQUEST FOR FEWER UNITS OCCURRED, NO ADDITIONAL COMMUNITY MEETING OCCURRED. APPLICANT NOTED PROJECT WAS REDUCED FROM 10 TO 6 UNITS TO BETTER FIT NEIGHBORHOOD. IN RESPONSE TO CONCERN BY COMMISSIONER LEVY, STAFF CONFIRMED DESIGN GUIDELINES INCLUDE 4-FOOT SIDE-YARDS FOR THIS TYPE OF SMALL LOT DEVELOPMENT.*

- d. The projects being considered are located on north side of Forest Avenue approximately 120 feet easterly of Winchester Boulevard (2467 Forest Avenue), in the CG General Commercial Zoning District (Paula Shulman Trustee & et al, Owner). Council District 6. SNI: None. CEQA: Exempt. Deferred from 2-11-04.
1. CP03-073. CONDITIONAL USE PERMIT to allow off-sale of alcoholic beverages at a new mini-mart and associated tenant improvements on a 0.36 gross acre site.

*NEIGHBORHOOD IN MAKING A RECOMMENDATION.*

*COMMISSIONERS ZAMORA AND DHILLON INDICATED SUPPORT FOR CONVENIENCE MARKETS AND SUGGESTED APPLICANT COULD RETURN TO SHOW NEED FOR CONVENIENCE ALCOHOL SALES AFTER MARKET OPERATION IS UNDERWAY.*

**5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
  - 1. Responding to statements made or questions posed by members of the public; or
  - 2. Requesting staff to report back on a matter at a subsequent meeting; or
  - 3. Directing staff to place the item on a future agenda.

*NO COMMENTS.*

**6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

- a. Proposal for Conservation Area procedures in Title 13.48. Council District: Citywide. CEQA: Exempt, PP04-02-054.

*RECOMMEND APPROVAL (6-0-1; ZITO ABSENT) TO CITY COUNCIL OF AN ORDINANCE AMENDING PART 2, CHAPTER 13.48 OF THE TITLE 13 SAN JOSE MUNICIPAL CODE TO PROVIDE FOR CONSERVATION AREA PROCEDURES.*

- b. *RSP03-004. SPECIAL USE PERMIT DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (DSEIR) TO ALLOW DEMOLITION OF THE W.G. JONES RESIDENCE, A STRUCTURE LISTED ON THE CSJ HISTORIC RESOURCES INVENTORY AS A STRUCTURE OF MERIT, FORMERLY LOCATED AT 126 VIOLA AVENUE, CURRENTLY LOCATED AT THE NORTHWEST CORNER OF ALMADEN BOULEVARD AND WOZ WAY. COUNCIL DISTRICT 3. DISTRIBUTED 3-4-04.*

**7. GOOD AND WELFARE**

- a. Report from City Council

*DEPUTY DIRECTOR EXPLAINED SUPPLEMENTAL EIR FOR CIVIC CENTER*



- c. Review of synopsis.

*NO CHANGE TO SYNOPSIS. RECOMMENDATION TO SCHEDULE A STUDY SESSION ON 4-28-04 FOR CONTINUOUS IMPROVEMENT OF COMMISSION PUBLIC HEARINGS.*

## 8. ADJOURNMENT

### 2004 PLANNING COMMISSION MEETING SCHEDULE

March 24	6:00 p.m.	Regular Meeting	Council Chambers
April 14	4:30 p.m.	<b>Study Session</b>	Room 400
Review of the General Plan			
April 14	6:00 p.m.	Regular Meeting	Council Chambers
April 26	6:00 p.m.	General Plan Hearing	Council Chambers
April 28	6:00 p.m.	Regular Meeting	Council Chambers
May 12	6:00 p.m.	Regular Meeting	Council Chambers
May 26	6:00 p.m.	Regular Meeting	Council Chambers
June 9	6:00 p.m.	Regular Meeting	Council Chambers
June 23	6:00 p.m.	Regular Meeting	Council Chambers
July 14	6:00 p.m.	Regular Meeting	Council Chambers
July 26	6:00 p.m.	General Plan Hearing	Council Chambers
July 28	6:00 p.m.	Regular Meeting	Council Chambers
August 11	6:00 p.m.	Regular Meeting	Council Chambers
August 25	6:00 p.m.	Regular Meeting	Council Chambers
September 8	6:00 p.m.	Regular Meeting	Council Chambers
September 22	6:00 p.m.	Regular Meeting	Council Chambers
<b>September 23</b>	<b>8:30 a.m./4:30 p.m.</b>	<b>Annual Retreat</b>	<b>Museum of Art, 110 S. Market</b>
October 13	6:00 p.m.	Regular Meeting	Council Chambers
October 27	6:00 p.m.	Regular Meeting	Council Chambers
November 1	6:00 p.m.	General Plan Hearing	Council Chambers
November 10	6:00 p.m.	Regular Meeting	Council Chambers
November 17	6:00 p.m.	Regular Meeting	Council Chambers
December 8	6:00 p.m.	Regular Meeting	Council Chambers